

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

PUBLIC OVERSIGHT ROUNDTABLE TO RECEIVE A BRIEFING ON OVERSIGHT OF CONTRACTORS' PERFORMANCE AND THE USE OF SANCTIONS TO PREVENT POOR PERFORMANCE, ILLEGALITY AND FRAUD



Testimony of Daniel Tangherlini
Director
District Department of Transportation

Anthony A. Williams
Mayor

Committee on Public Works and the Environment
Carol Schwartz, Chairperson

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Good day, Chairperson Schwartz, Councilmembers and staff. I am Dan Tangherlini, Director of the District Department of Transportation (DDOT). It is my pleasure to testify before you and the Committee on Public Works and the Environment.

This is perhaps the most important hearing that I have ever been called to testify before since Mayor Williams appointed me to lead the District's transportation program almost three years ago. In many ways, the issues we will discuss today, the changes we have made at DDOT, and those efforts we continue to make to improve our performance managing the taxpayers' money, are the most important that we deal with.

Honesty in government and how we spend taxpayer dollars, are the basic responsibilities of a well-run agency and a well-run government. Leadership needs to set the tone of expectation that ensures that employees remain honest and that we get full value from our contractors. Upholding these objectives is my most important duty as a public servant. I therefore welcome this opportunity to testify about the actions I and my subordinates have taken to cooperate with investigators, auditors and the Council to correct past mistakes and tighten procedures to discover and prevent illegal, unethical and inappropriate acts by anyone associated with the District Department of Transportation, including employees, consultants and contractors.

One of my first actions in May, 2000 as the new Director of the then Division of Transportation was to order that all requests for records made by the U.S. Attorney, or any other investigator, be produced as soon as possible. To my horror, upon joining the Division of Transportation, I had learned that there were several long-standing investigations into contract management practices, fraud and abuse. I was only more startled to learn that the Division had not been fully cooperating with the investigators. As I said, I put an end to this lack of cooperation immediately, making responsiveness to these investigations among our highest priorities.

We provided unfettered access to our files. We provided expert witnesses to the investigators. We provided support for evidence accumulation. I let it be known that I would not be satisfied until these investigations had been concluded and we had learned the full measure of what had transpired in the past. It is my understanding that our full cooperation contributed to the recent guilty pleas in the case known as Operation 'Hotmix.'

Given all the investigatory action in the Division, I worked with the City Administrator to request a complete evaluation of contract processes and management by the Office of the Inspector General. This investigation concluded nearly a year ago and yielded important information that the new District Department of Transportation (DDOT) has employed in restructuring some of its operations.

Perhaps more importantly, DDOT has now built a strong and cooperative relationship with the US Attorney's Office, the FBI, the Inspector General's Office and the Metropolitan Police Department, to jointly root out any form of employee or contractor misbehavior.

Because the Operation 'Hotmix' legal proceedings continue, I can only remark in a limited way on these proceedings' scope and future direction. However, I do want to assure the Committee that as soon as we confirm that any legal action is being taken against an employee or a contractor, appropriate action will be taken.

Our record in this regard is clear to anyone interested or involved: not a single employee that was implicated in or indicted, as a part of Operation 'Hotmix' remains employed with DDOT.

Additionally, it is my understanding that the Office of Contracts and Procurement has undertaken debarment action against the specific contractor involved in this case. Under this system, while the contractor is provided with a due-process proceeding, the firm is suspended from bidding on contracts while a penalty is determined. This penalty can take the form of continued suspension for a specified period of time, up to three years. The DC debarment program is new, an example of the District's toughening stand on contractor performance. In addition, the Federal Highway Administration is considering taking similar steps at this time.

The Broader Context

I would like to take some additional time to set some context for the Committee in terms of broader changes we have made to the organizational structure of DDOT that ensure better performance and a decreased risk of anything of the sort happening again. In addition I would like to mention some examples of specific contracts over which we have increased scrutiny, which is paying off in better performance and savings to the District.

Before I begin, though, I need to make clear that most of the contractors hired by our Agency perform the Department's contracts in a satisfactory and timely manner. For the fiscal years 2000-2002, we awarded 115 construction contracts totaling \$443 million. Contractors routinely performed these contracts without any major performance problems. When issues occurred between the District and the contractor, it was generally because of valid differences in contract interpretation that were subsequently resolved either by negotiation or through the Contract Appeals Board. However, I emphasize that most contracts were completed on time and within budget.

Creating the New Department of Transportation

When the Mayor set out to recreate a state-level transportation agency, on par with the 50 other state transportation departments, increased accountability was one of his primary goals. With the new Department, developed with the cooperation of the Council – particularly this Committee – and the Congress, enhanced accountability has been one of the results.

The illegal acts of Operation 'Hotmix' took place between 1995 and 1998 when transportation was merely a division in the Department of Public Works. Because of its division status, it lacked the visibility and high-level attention needed by a function so vital to the District. Hundreds of projects worth hundreds of millions of dollars were hidden under the wide umbrella of DPW where the daily pressing issues of service delivery frequently crowded out the focus on these long-term capital improvements.

The new Department of Transportation has begun to achieve its needed independence, focus and accountability. Nationally, we have begun to win recognition for our transportation programs, including the recently launched Roadway Operations Patrol, the rehabilitation of the Taft Bridge Lions and regional cooperation on homeland security. In addition, we will be hosting the Northeast Association of State Transportation Officials (NASTO) annual conference, next spring, as well as the Council on Minority Transportation Officials (COMTO) annual meeting this summer.

Much of the progress we have made recently has come from continuing the drive for accountability down to all levels of the Department. Most notably we have reorganized our project management function to improve performance and enhance, up to three years customer service.

Creating IPMA

Prior to 1999, the services provided by the Division of Transportation were slow and not well coordinated among all the stakeholders. The processes to identify, design and construct a bridge or a roadway project averaged five years. The judgment was that the Division of Transportation was purely reactive, lacked vision, failed to communicate with citizens and other interested parties and was unable to quickly and adroitly respond to problems. In addition, there was competition for budget, procurement, and administrative services with other divisions in the Department of Public Works.

In the old Division, the planning and scoping of a project were separate from design, which was also separate from construction. This led to projects that did not meet neighborhood or even District-wide and regional needs—bridges and roads were simply replaced as they had been built, without regard to the ever-changing nature of our city. Projects were often unwelcome and had to be altered even though substantial design had been completed and/or cumbersome, expensive change orders were needed to fit projects into local circumstances during construction. Overall there was a general lack of accountability in the whole chain of project development.

As part of Mayor Williams's commitment to change the way the District delivers services, the new Department created a geographic-based approach to project planning and execution whereby "teams" become part of the city's neighborhoods, gaining a better understanding of their local and citywide concerns and thus able to better manage our contractors in the field and improve our overall responsibility.

The Department also retooled its materials section replacing it with a new Quality Assurance/Quality Control (QA/QC) program, which ensures that DDOT projects meet or exceed industry standards and requiring the accountability of private contractors. Among the actions taken in this area include replacing inspectors in each of the individual materials plants with a roving team of inspectors and requiring each plant to certify and ensure the quality of its materials. And this team has proven its worth by requiring contractors to tear-out and replace materials and work that do not adhere to the District's standards. In fact, DDOT is currently exploring the steps to gain ISO 9000 certification for its program.

The rest of IPMA is organized into four teams. Each team is responsible for two wards in the city. To increase coordination, the staff, which was scattered in several buildings, was moved to one central location close to the Reeves Center and the majority of our project work. This has enabled long-separated design and

construction staff to work together and strive for a common goal and follow every project from initial planning through construction.

Each team is supported by a ward planner, a budget officer, a procurement officer, a traffic engineer and technical advisors whose role is to maintain project design and construction standards. They will soon also check for any abnormalities prior to award of construction projects through the use of an automated system licensed by the American Association of State Highway and Transportation Officials (AASHTO).

AASHTOWARE Program

AASHTO's BAMS/DSS system is currently used by 36 state DOTs, including Maryland and Virginia, to analyze transportation facilities construction project data. The system provides for a historical database of all production module data associated with construction projects – from the point the project is first designed and estimated all the way to the time when the construction phase is finalized. It also contains comprehensive data relevant to vendors, their facilities, company officers and the vendor work capacities.

The system, which we will begin implementing later this month, also includes mechanisms for analyzing bids that will allow us to detect collusion; determine anti-competitive practices and pricing; and improve our ability to evaluate contractor performance.

Contractor Evaluation

IPMA has also instituted this month an on-line system for evaluating the performance of all design and engineering contractors. This system will allow the Department to both develop a sense of which firms are delivering high-quality service as well as “turn-around” a project mid-stream if problems begin to develop. We met just last week with the District's Architects and Engineer's Council (A/E Council) to discuss this program and seek their input for refining it.

Specific Contract Management Activities

While I could continue to speak at length about the improvements we have made in IPMA to ensure improved project delivery, I will instead turn to some additional contract management improvements we have instituted Department-wide.

Parking Meter Contract

Based on concern raised by the Council – again, in particular this Committee – DDOT has undertaken a program to extensively evaluate and improve the performance of the District’s parking meter management contract. While the contract was developed before DDOT became a stand-alone agency, we recognize that we will have the opportunity to re-compete this contract in less than two years’ time. We are already exploring alternative means of delivering these services including providing some or all of the program in-house. Meanwhile, DDOT is taking a number of steps to improve accountability and performance of the existing contract.

DDOT has appointed a meter contract monitor, turning to our in-house parking analyst staff to serve in the position on a rotating basis while it continues to be advertised. The contract monitor has begun a broad in-house examination of the contract, including complaint response and equipment performance.

DDOT received 980 complaints in March of broken meters. The parking meter contract requires that meters be repaired within 72 hours of a report. DDOT is analyzing this data, including how long it takes to investigate and make necessary repairs, in order to determine if the contractor is meeting the 72-hour deadline.

Separately, DDOT is launching a comprehensive examination of every parking meter in the District. Our staff of 30 NIMOs (Neighborhood Infrastructure Maintenance Officers) will visit each of the 15,000 meters to make sure that it is properly installed: with the correct information labels; street signs are in agreement; and each meter is time-tested with coins.

To ease and encourage public comment, DDOT is developing a section of its web page for the public to send us direct comments on meter problems and offer suggestions. As part of this effort, we are developing a survey form to quantify the problems. We also have taken steps to improve our telephone-based complaint line for those who do not have access to the web.

Finally, DDOT is exploring new meter technology both for individual meters and for replacing stand-alone meters with multiple-bay meters that can accept credit cards and Metro's SMARTTRIP pass. A trial of these multiple-bay meters in Georgetown will end in July.

Asset Management Contract

The five-year, \$70 million asset management contract to maintain 75 miles of the District's major highways is of high importance to DDOT. The contractor, VMS Inc., selected in cooperation with the Federal Highway Administration, is responsible for pothole repair and street maintenance, graffiti removal, bridge and tunnel maintenance on the Southeast/Southwest Freeway, Connecticut Avenue, 16th Street, NW, Pennsylvania Avenue, Branch Avenue, SE, the Suitland Parkway and other major roadways.

Contract monitoring includes two levels of regular reviews of all 75 miles. Four DDOT staff members review every route daily and a joint contractor-DDOT team rates the streets for things VMS is responsible for. Problems are brought to the contractor's attention by phone and fax.

To date, the contractor performance can be described as uneven, with some things done well, such as tunnel cleaning, graffiti removal and street cleaning and others not, including overhead sign lighting, bridge maintenance and lane markings.

The contractor has agreed to a summer program of deficiency-correction. If the performance does not meet the contract standards, DDOT is prepared to take appropriate action. In this context, the contractor performance has not yet qualified for the two percent bonus that would be justified by exceeding the standards set in the contract.

Traffic Services

Many of the requests received by DDOT for traffic studies related to traffic calming cover a limited area and do not require the services of a professional consultant. While area-wide studies addressing numerous issues will continue to be performed by consultants, smaller studies will be performed by our transportation planners working in concert with our traffic engineering staff. We have begun the process to reclaim these duties from contractors. Proceeding in this manner will allow us to conserve financial resources, create in-house expertise, and ensure a quicker response to requests with limited scopes of work.

Another improvement in our traffic operations area includes the new FY02 Traffic Signal Construction Contract, which provides for the installation of eleven new traffic signals and the modification of seven existing traffic signals. For example, the proposed traffic signal at 13th Street and Allison Street, N.W. is scheduled to be under construction no later than July 15, 2003. The contractor's schedule also provides for the completion of construction of the proposed traffic signal at 2nd Street and Missouri Avenue, N.W. before school resumes in September 2003.

Ethics Training

Finally, and perhaps most importantly, DDOT recognizes the extreme importance of ensuring that all staff receive proper ethics training. It is through this training that we hope to educate our employees of the standards of ethical conduct that apply to District employees and to advise them of the repercussions of violating these standards. It is our belief that many employees may be unaware of these rules and, therefore, we contend that it is imperative to provide ethics training to educate our employees and to deter future ethical violations.

Just two-years ago DDOT held its first-ever ethics-training seminar for its front-line employees. A collaborative effort between DDOT, the Office of the Corporation Council and the United States Attorney's Office, the training provided an eye-opening reality-check for some employees.

DDOT will continue this work by conducting additional training in partnership with the Office of Corporation Counsel's Ethics Coordinator, as well as with DDOT's own internal Ethics and Risk Management Officers. This training has already been scheduled to occur in June. It will cover all Federal and District ethics rules that pertain to District employees.

From this point forward these sessions will be an ongoing, annual event and will be incorporated into DDOT's existing new employee orientation program. We believe this training is an important step in rectifying past practices and ensuring that DDOT continues to serve as a model agency in the District by incorporating proven business practices and models into the management of its agency.

This concludes my testimony. I am available to answer any questions.